

File 51841

TO : Mr. Cary	DATE OF REQUEST	
FROM : Don	SUSPENSE DATE	
SUBJECT:  Letter to Senate Judiciary on S. 1841, the polygraph bill		
NOTES  When this bill was first introduced, we wrote to Senator Bayh about a meeting on <del>this bill</del> . However, such a meeting never came about and at this point it would seem more advantageous to send our views to the Committee. We have not received a request for comments and no action on the bill is pending. Representative Koch has introduced similar bills in the House and we can use this model for letters to the House Judiciary Committee. I have attached PLC's letter to Bella on the polygraph subject, which is quite similar to the one I have prepared.		
<p>Don</p> <p>Let Larry [unclear] [unclear] know about [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] as an enclosure</p>		
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ACTION REQUIRED BY GLC  Approve for typing in final		
Approved For Release 2002/01/02 : CIA-RDP77M00144R000800130005-8		

STATINTL

Honorable James O. Eastland, Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

S. 1841, which would bar Federal agencies from administering polygraph or similar examinations to employees or employment applicants, has been referred to the Committee on the Judiciary for consideration. I must strongly oppose <sup>this bill</sup> any measure preventing such use of the polygraph by the Central Intelligence Agency, as <sup>it</sup> this would seriously impair the ability of the Director of Central Intelligence to fulfill his statutory charge to "protect intelligence sources and methods from unauthorized disclosure" (50 U.S.C. 403). An effective personnel security program is vital to assure this protection.

The Central Intelligence Agency uses polygraph testing as <sup>one of the final steps</sup> a part of <sup>in the applicant</sup> its security screening process for applicants, as ~~well as for its reinvestigation~~ program. After a judgment has been made that an applicant satisfies a manpower need of the Agency, our Office of Security conducts an investigation to determine whether the applicant meets <sup>base</sup> security criteria. One of the later phases of this security investigation is an interview in which the polygraph <sup>It is also used in our reinvestigation program,</sup> is employed. The reinvestigation, which is conducted at approximately five-year intervals in an employee's career, ~~is a natural corollary to the~~ rigid initial screening. <sup>The</sup> ~~its~~ purpose <sup>of the reinvestigation</sup> is to detect any hostile exploitation or subversion of "in-place" CIA employees. The polygraph examination during the reinvestigation is limited only to counterintelligence questions. <sup>to</sup>

*Brief statement on CIA's use of the polygraph is enclosed*

*Statistics prove that*  
The polygraph program is an essential element of our security program.  
During the period 1963 through mid-1974, nearly 1800 applicants for staff or staff-type positions were rejected on security grounds; of this total, *of those applicants rejected on security grounds* over 60 percent were rejected *because* on the basis of information developed principally or solely during polygraph interviews. In a sampling of recent records, 52 percent of *those* applicants ~~who had been disapproved on the basis of information~~ *because of their polygraph interview* developed during polygraph interviews had ~~already~~ completed all other security screening and been provisionally approved ~~on this basis~~. Without the polygraph program, the disqualifying information on these cases would have remained unknown. In addition, I believe *to this proven value* it is reasonable to presume ~~that~~ the program is a significant deterrent to application for employment by unsuitable candidates, and, more importantly, penetration attempts by foreign intelligence services. *The preponderance of polygraph interviews which are favorable confirm other screening procedures*  
The utility of CIA's polygraph program is not solely a function of its part in contributing information *leading to the rejection of unsuitable candidates*. The ~~preponderance of polygraph interview reports are favorable~~. Most of these ~~favorable reports constitute useful and comforting confirmation of other screening procedures~~; the remainder represent favorable resolutions of *or put to rest* allegations or suspicions which otherwise could result in injustices or in unnecessary defensive measures.

We at CIA are aware of the possibilities of abuse of the polygraph program, and we have procedures in effect to forestall abuses and to protect the rights of those taking the examinations. These include:

--each applicant ~~for employment~~ is notified at the time *and must consent*  
~~of the application of the intent to use the polygraph. During~~  
*to the interview. Questions are reviewed with the*  
applicant processing the polygraph procedure and examination  
*applicant before testing*  
coverage is fully explained, and the examination is conducted  
--only after the applicant consents to the interview.

--advance consultation with the Office of Personnel and  
the Office of Medical Services ~~to~~ determine whether a polygraph  
is advisable;

--the applicant is notified of the privilege against self-  
incrimination if a question may pertain to a violation of the  
criminal law;

--~~the~~ general content of all applicant polygraph test  
questions is reviewed before testing to assure that all questions  
relate directly to security considerations as outlined in Executive  
Order 10450;

(No questions on religious thought or practices or political  
affiliation of a non-subversive nature are permitted.)

~~the applicant is told that the examination may be monitored~~  
~~and possibly recorded to let him know there are no hidden procedures;~~

--there is random monitoring by a specialized supervisor, to *the applicant is informed*  
insure that no improper questions are asked; *and the applicant is so informed;*

--polygraph records are maintained in separate files with  
very strict need-to-know rules governing access;

-- ~~The standards for selection of polygraph operators are~~  
~~extremely high. Operators are given a rigorous training program;~~

-- ~~CIA maintains an active research program to enter new~~  
~~equipment and techniques to insure that the highest standards are~~  
--the polygraph examiner makes no recommendation as to the ~~maintainance~~

security suitability of the person tested;

→ ~~the polygraph report is evaluated as only one element in~~  
~~the total investigative report.~~

Spot interviews and occasional surveys have been conducted with applicants who have completed their polygraph tests to insure that the program adheres to established standards. In one such program, several thousand female applicants were interviewed after their polygraph examinations. Feedback from these interviews was utilized to guide polygraph procedures, but the program was finally dropped because the incidence of adverse commentary was too low to justify its continuance.

Finally, the selection of polygraph officers is extremely discriminating as to their qualifications, intelligence, integrity, and high character. They are given a rigorous training program which is a continuing process to keep them abreast of developments in their professional field. To support this program, CIA has maintained a vigorous research field. To support this program, CIA has maintained a vigorous research effort inquiring into new techniques and equipment to insure that highest standards are maintained.

\* The National Security Agency also collects and disseminates extremely sensitive foreign intelligence information, and that agency has also found it necessary to use the polygraph as part of its security program. I believe the use of the polygraph by NSA is also fully justifiable, but I refer the Committee to NSA for the details of its program.

→ insert next page

In his 2 June 1975 statement accompanying the introduction of S. 1841, Senator Bayh expressed his willingness to consider the need for a limited use of the polygraph in the intelligence field. Former Senator Sam Ervin, a strong advocate of individual rights, recognized this need. In his proposed legislation to protect the personal privacy of Government employees, introduced during several Congresses prior to his retirement from public office, Senator Ervin expressly excepted the CIA and National Security Agency from the provisions barring the use of the polygraph in Government. ~~Senator Ervin's last bill was S. 1688, which passed the Senate on 7 March 1974.~~ If S. 1841 is reported to the Senate by the Judiciary Committee, I strongly urge the Committee to add the following amendment to proposed section 246 of Title 18:

"(d) This section shall not apply to Central Intelligence Agency or the National Security Agency."

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush  
Director